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Annual report...  
Crime Victims Unit/  
Montana Board of Crime  
Control.--Helena Mt

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ANNUAL REPORT FY 1987

CRIME VICTIMS UNIT

Montana Board of Crime Control

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## BOARD OF CRIME CONTROL

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TELEPHONE NO. 444-3604

Fiscal Year 1987 was the last year the Crime Victims Compensation program was administered by the Workers' Compensation Division. Attached is the annual report for the Crime Victims Unit and a summary of legislative changes and cases.

A "Thank You" from all the innocent victims who received help goes to law enforcement, prosecutors, victim advocates, legislators, medical providers and the many unnamed who have provided assistance.

*Cheryl Bryant*

Cheryl Bryant  
CRIME VICTIMS UNIT

LEGISLATIVE CHANGES TO THE  
CRIME VICTIMS COMPENSATION PROGRAM

On July 1, 1987, HB 309 sponsored by Rep. Joe Quilici of Butte, became effective and changed several provisions in the Crime Victims Compensation Act of Montana. Those changes did not affect claim processing or the criteria for an award of benefits.

The major change removed the Crime Victims program from the Workers' Compensation Division and gave all authority and responsibility for the program to the Crime Control Division. The Crime Control Division has published rules, ARM 23.15.101 et seq.

The benefit limits were also raised for crimes which occur on or after 7/1/87. The maximum for wage loss compensation is 1/2 the State's average weekly wage instead of \$125 a week. Funeral benefits were increased to \$2,000 from \$1,100. The \$20,000 maximum on victims who are employable but unemployed was eliminated and a maximum of \$25,000 is applied instead. The \$25,000 maximum on employed victims is still in place.

The appeal court was changed from the Workers' Compensation Court to the district court of Lewis and Clark County or the county where the victim resides.

The privacy provisions for release of records was clarified and strengthened. Anyone wishing information of a private or personal nature must show by clear and convincing evidence that there is a public need to know. Information of a general nature, such as award of benefits or the amount, or whether a claim is filed can still be released.

The subrogation rights of the Crime Victim Compensation fund was extended to recoveries from a collateral source which arise from the criminally injurious conduct in addition to a recovery from the offender.

Two other bills were passed which were effective 10/1/87, HB 554 sponsored by Rep. Fritz Daily of Butte and SB 40, sponsored by Sen. Mike Halligan of Missoula.

HB 554 changed the notoriety for profit section. The old law made it permissive for the Workers' Compensation Division to hold any profits received by an offender from a reenactment of the crime for the benefit of the victims. The new law makes it mandatory to hold such funds. The victim is entitled to reimbursement for all damages or \$5,000, whichever is greater. The proceeds may also be used to pay for the offender's court appointed attorney. Any balances revert to the Crime Victims Fund.

SB 40 provides mental health counseling payments for certain family members of homicide victims or sexually abused minors.

The spouse, parent, child, brother or sister of a homicide victim or the parent, brother or sister of a sexually abused minor may apply. The treatment must be required because of the crime. In cases of a sexually abused minor, someone must be charged with the crime and there must be no eligibility for Title 41, Chapter 3 benefits. The payments terminate 1 year after a claim is filed. The benefit is limited to \$500 per person or \$1,500 for a family. This section does not effect the eligibility requirements or benefits of the primary victim.

CRIME VICTIMS UNIT  
CRIME CONTROL DIVISION  
STATE OF MONTANA  
ANNUAL REPORT FY87

FILE INFORMATION

Claims 390

Received on FY 86 files	16
Received on FY 87 files	374
Persons contacted FY 87	<u>65</u>
Files created	<u>439</u>

	<u>AWARDS</u>	<u>DENIED</u>
FY86 claim held over	45	37
FY86 claim received FY87	10	6
FY87	<u>174</u>	<u>128</u>
Total	229+*	Total 171

(+ 3 FY86 claims reduced for contribution, 2 male, 1 female)  
(\* 11 FY87 claims reduced for contribution, 10 male, 1 female)

Average time from receipt of claim to decision (318 claims)	55 days
Average time on claims held over (82)	90 days

	C.V.U. SOURCE OF KNOWLEDGE ABOUT VICTIMS	VICTIMS SOURCE OF KNOWLEDGE ABOUT THE PROGRAM
Law Enforcement	25	97
Prosecutor	1	15
Medical Providers	66	82
Relative/friend	15	6
Attorney	14	14
Government agency	1	1
Victim/claimant	308	--
Welfare	4	56
Funeral Home	2	11
Victim/Witness Program	3	28
Other	--	2
Unknown	<u>--</u>	<u>78</u>
	439	390

CRIME VICTIMS UNIT  
ANNUAL REPORT FY87  
Page 2

COMPENSATION PAID FY87

Medical expense	\$188,986.97
Mental Health Counseling	98,474.45
Wage loss	25,403.55
Funeral	21,102.74
Employable but unemployed	5,200.00
Claimant attorney fee	50.00
C.V.U. legal & costs	<u>152.83</u>

Claims cost \$339,370.54

\*(Reductions) 11,370.38

Net claim cost \$328,000.16

ADMINISTRATION

Direct costs @ W.C.D.	\$31,380.66
Indirect costs @ W.C.D.	<u>23,556.00</u>

TOTAL \$54,936.66

Average payment on claims (321 claims)	\$1,057.72
Average administrative cost per file (715 files)	\$ 77.05

\*Claim cost reduced by:  
Restitution from offenders - \$10,420.69  
Recovery from subrogation - \$949.69



CRIME VICTIMS UNIT  
ANNUAL REPORT FY87  
Page 3

FILE INFORMATION

	PRIOR FYS	FY86	FY87	TOTAL
OPEN FILES				
Ongoing payments	8+	25	68	101
Pending decision			72	72
Pending receipt of claim			54	54

CLOSED FILES

With payment		38	89	127
With payment (award prior FY)	20*	54	--	74
Reopen for additional payment	8^	11	--	19
Collateral Source Paid		17	17	34
Didn't wish to file			2	2

DENIED

Non-cooperation		7	15	22
No report to law enforcement			5	5
Not reported in 72 hours		5	20	25
Live with/relative of offender		2	4	6
100% contribution		3	28	31
Property loss			1	1
No preponderance of evidence victim qualifies		13	28	41
Traffic		1	2	3
Claim filed after 1 year		2	5	7
Crime occurred out of state		--	3	3
Claimant was offender		2	--	2
No crime		--	--	--
No response from claimant		8	17	25

Total denied

No claim filed within one year		52	9	61
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<u>TOTAL DISPOSITIONS</u>	28	229	439	715
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+ FY81 - 1  
FY82 - 2  
FY83 - 1  
FY84 - 2  
FY85 - 2

\* FY84 - 5  
FY85 - 15

^ FY82 - 1  
FY84 - 3  
FY85 - 4

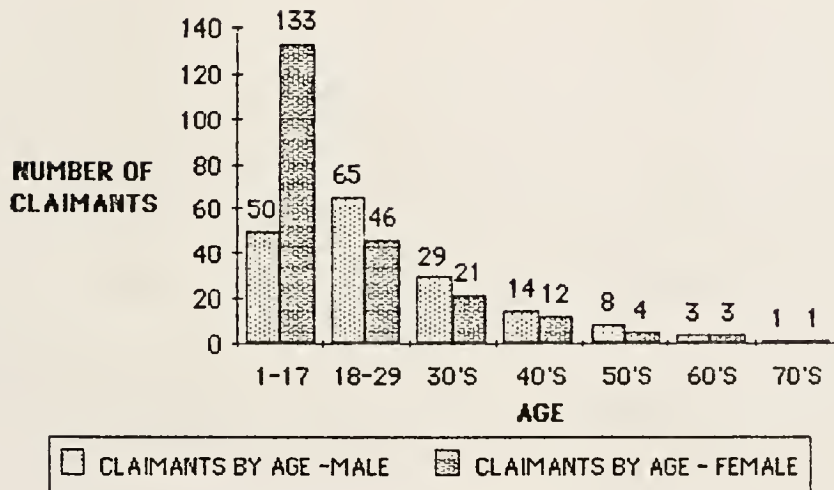


CRIME VICTIMS UNIT  
ANNUAL REPORT FY87  
Page 4

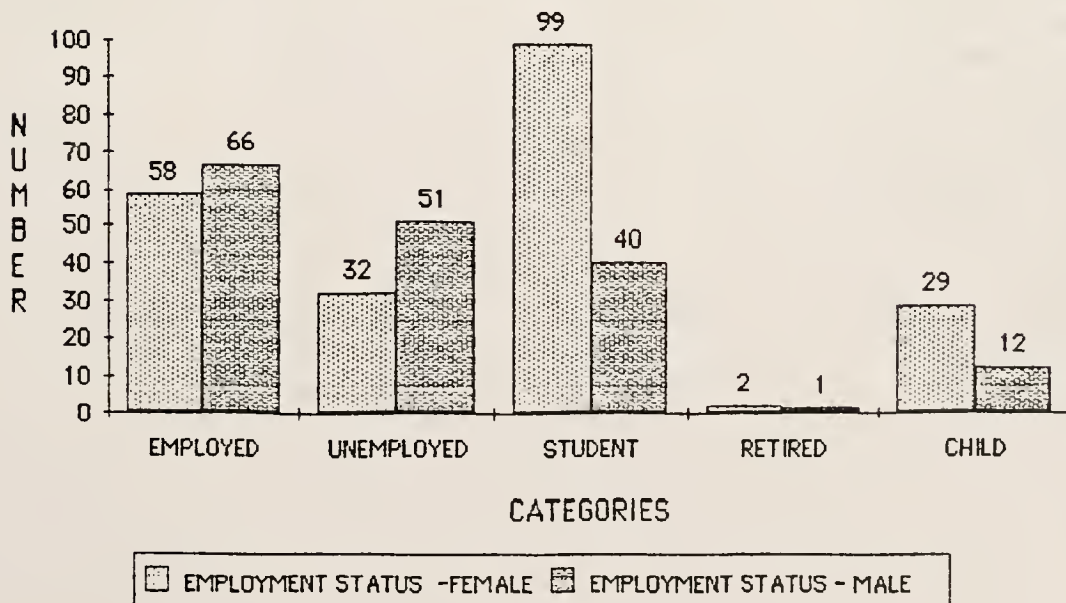
VICTIM

		Average Age	Youngest - Oldest
Male	170	25	1 - 75
Female	220	18	1 - 75

**CLAIMANTS BY AGE**



**EMPLOYMENT STATUS**



CRIME VICTIMS UNIT  
ANNUAL REPORT FY87  
Page 5

LOCATION OF CRIME

	Male	Female	
Victim's home	14	53	17.2%
Offender's home	14	47	15.6%
Victim & Offender's home	24	53	19.7%
Other home	17	10	6.9%
Victim work	2	5	1.8%
Street/alley/lot	22	12	8.7%
Highway	3	3	1.5%
Public business .	17	7	6.2%
Field/park	8	11	4.9%
Bar/lot	46	9	14.1%
School	2	5	1.8%
Out of State	--	3	.8%
Other	<u>1</u>	<u>2</u>	<u>.8%</u>
	170	220	100%

TYPE OF CRIME

	Male	Female
Homicide	14	7
Attempted Homicide	2	3
Aggravated Assault	56	17
Assault	50	26
Rape	--	33
Attempted rape	--	1
Sexual Assault	20	60
Incest	10	42
Strong Arm Robbery	7	1
Traffic	1	1
Child Abuse	3	1
Domestic Abuse	--	14
Kidnap	--	1
Theft	1	--
No crime	6	12
Other	<u>--</u>	<u>1</u>
Total	170	220

CRIME VICTIMS UNIT  
ANNUAL REPORT FY87  
Page 6

COMPARISON REPORT

	FY86	FY87
Files created	453	439
Claims received	394	390
Awards	260	229
Denied	94	171
No claim filed one year	54	61
Held over to following year:		
pending eligibility decision	82	72
pending receipt of claim	69	54
 Awards paid (net)	 \$332,029.86	 \$327,776.87
 Adminstration cost		
direct cost @ W.C.D.	\$32,604.16	\$31,380.66
indirect cost @ W.C.D.	<u>\$24,473.07</u>	<u>\$23,556.00</u>
 Total	 \$57,077.23	 \$54,936.66
 Restitution from offenders	 \$4,279.29	 \$10,420.69
Average payment	\$1,207.48	\$ 1,057.72
Processing time	47 days	55 days
 Victim		
Male	164	170
Female	230	220
 Average age		
Male	26	25
Female	18	18

CRIME VICTIMS UNIT  
Sample of Claims and Decisions for FY 1987  
Page 7

Benefits awarded - Medical expense \$8,337.56 and Wage loss compensation \$339.29

The victim, a male age 31, and a young woman were at a party. The victim invited her to his house under the impression she was single. Other persons at the party advised this woman's husband where she was. He went to the victim's home forced his way inside and shot the victim. Part of the medical expenses were paid by insurance. The offender was convicted of aggravated assault.

Benefits awarded - Medical expense \$134.48.

The victim, a female age 25, was giving several friends a ride home when two male subjects in the car started fighting. The victim asked them to stop. They did but the fight started up again a few blocks down the road. The victim stopped the car and asked the two to get out. One man struck the victim as he was getting out of the car. The offender was convicted of assault.

Benefits awarded - Medical expense \$722.50.

The victim, a female age 21, was assaulted in her home by a male subject she had formerly lived with in another state. She had left the subject but he had followed her here. The victim had no collateral sources. A warrant was issued and outstanding for the offender.

Benefits awarded - Medical expense \$120.00, Medical expense \$160.00.

The victims, a brother age 10 and sister age 8, were staying at a motel with their parents. The two children were out by the swimming pool and were sexually molested by a 50 year old male. The offender was arrested on felony charges. The insurance company refused payment on counseling expenses.

Benefits awarded - Medical expense \$358.50.

The victim, a male age 15, was sexually molested by a 28 year old man who had become friends with the victim and his family. The insurance company paid part of the expenses. The offender was convicted for this case and several others.

Benefits awarded - No payments made.

The victim, a male age 27, was at work and apprehended a shoplifter. The shoplifter stabbed the victim in an attempt to get away. The case was closed without payment because all expenses were paid by workers' compensation insurance.

Benefits awarded - Funeral expense \$1,100.00.

The victim, a female age 66, was killed during an armed robbery at her employment. Workers' compensation did not pay all of the funeral expense. The offender pled guilty.

Benefits awarded - Medical expense \$25,000.00.

The victim, a female age 33, had told her male roommate that she was ending the relationship and wanted him to move out. The next day while she was out of the house the offender came to her home and waited until she came home. He began arguing with her then shot her several times and fatally shot himself. The victim had no collateral sources. The maximum amount allowable was paid which did not cover all of the medical expenses.

Benefits denied - There was no preponderance of evidence the claimant was an innocent victim or that criminally injurious conduct occurred, the claimant did not fully cooperate with law enforcement and prosecuting attorneys and the claimant contributed 100% to his own injuries.

The victim, a male age 35, stated he was asleep in his home when he was attacked by a male and female subject. About 13 days after the claim was filed for crime victims benefits, the victim gave a sworn statement that his initial report to law enforcement was not true because he had been intoxicated and sedated at the hospital. The victim recanted all of his earlier testimony and stated the offenders had permission to be in the house and that it was his own fault the incident occurred. He also stated he'd been in a fight earlier in the evening. The victim was charged for giving false reports to law enforcement and attempted theft. He pled guilty to the false reports.

Benefits denied - The crime was not reported to law enforcement within 72 hours and the claim was not filed within one year.

The victim, a female age 25, filed a claim for being a victim of incest which occurred for 12 years prior to the effective date of the statute (January 1, 1978) and for 2 years after. The victim had not reported this to law enforcement although she had been an adult and could act on her own for 7 years. The victim did not report to law enforcement since she did not want her father to go to prison. The reason provided by the victim was not good cause to extend the time limit.



Benefits denied - No preponderance of evidence the claimant was an innocent victim.

The claimant, a female age 39, filed a claim on her own behalf since her step-son had been sexually molested. Benefits were denied since she had not suffered any bodily injury as a direct result of criminally injurious conduct.

Benefits denied - The victim did not fully cooperate with law enforcement.

The victim, a male age 35, stated he was beaten and robbed on the street and had no knowledge of the incident because of the head injuries. The law enforcement investigation showed the victim was extremely intoxicated when the incident occurred, gave his first name and age to the officers. He told the officers he was beaten up but did not want to give them any other information and did not want to press charges.

Benefits denied - No report made to law enforcement within 72 hours.

The claim was filed by the parent of an alleged sexual molest victim. The parents, 2 years prior, had filed claims on two other children in the family. Those incidents had been reported to law enforcement and investigated. The reason for not reporting this case to law enforcement was that they did not want to bother the police. This was not considered good cause to extend the time limit.

Benefits denied - property loss.

The victim, a male age 32, picked up a hitchhiker. The victim's car broke down so the two walked into town and spent the night. The hitchhiker left. The victim went back to his car the next day and discovered it had been broken into and various items stolen. The victim stated he was in shock because of this. Benefits were denied because the claim was for non-bodily damage and pain and suffering.

Benefits denied - Traffic accident.

The victim, a male age 22, was riding his motorcycle on the street. A car pulled out from a parking lot, struck the victim and left the scene. Benefits were denied because criminally injurious conduct does not include conduct arising through the use of a motor vehicle as described in Title 61, the traffic code.

